

REMARKS

Claims 1 to 151 have been canceled without prejudice to subsequent revival in this application or in one or more related applications. New claims 152 to 182 have been added. The new claims are presented for the purpose of advancing the case toward allowance and differences between the new claims and the previously pending claims should not be viewed as acquiescence to any of the Examiner's rejections. The new claims are believed to include no new matter.

The Examiner rejects claims 117-133 and 135-151 under 35 USC 112, first paragraph, as failing to comply with the written description requirement.

Applicant traverses the rejection. However, in order to facilitate prosecution of the application, applicant presents new claims herein which applicant believes make the Examiner's rejection unnecessary.

The Examiner rejects claims 108, 110 to 132 under 35 USC 112, first paragraph, as failing to comply with the written description requirement. The Examiner states that the claims include new matter. Applicant traverses the rejection.

The Examiner indicates that the specification does not provide support for nucleotides 1115 to 1626 of SEQ ID NO: 1. To add clarity, disclosure of nucleotides 1115 to 1626 can be found at the first paragraph of Example 5, found on page 38 of the specification. This Example specifically discloses the cloning of the 0.5 kb promoter. As disclosed in the Example, the PCR primers employed to obtain the 0.5 kb fragment are those shown in SEQ ID NO: 15 (the reverse primer) and SEQ ID NO: 17. By comparing the sequence of the primers to the sequence of SEQ ID NO: 1 it can be seen that the product resulting from PCR of the nucleotide sequence of SEQ ID NO: 1 with these two primers will be the DNA fragment spanning from nucleotides 1115 to 1626 of SEQ ID NO: 1 (i.e., the 0.5 kb promoter). Therefore applicant submits that the written description requirement is fulfilled.

The Examiner rejects claim 113 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Applicant traverses the rejection. However, claim 113 has been canceled making the rejection unnecessary.

The Examiner rejects claim 117 under 35 USC 102(b) as being anticipated by the nucleic acid deposited as AC12751 (3/22/00) and claim 138 as being anticipated by the nucleic acid deposited as AU088319 (1/27/01). Applicant traverses the rejection. However, claims 117 and 138

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have been canceled making the rejection unnecessary.

If any issues remain to be addressed in this matter, which might be resolved by discussion, the Examiner is respectfully requested to call applicants' undersigned counsel at the number indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kyle Yesland', written in a cursive style.

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